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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Constantino Najera-Diaz,

10 Petitioner,

11 v.

12 Loretta E. Lynch, et al.,

13 Respondents.

14 No. CV-15-01360-PHX-SPL (ESW)

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16 **REPORT AND**
17 **RECOMMENDATION**

18 On July 17, 2015, Petitioner Constantino Najera-Diaz (“Petitioner”) filed a
19 Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (Doc. 1) (the “Petition”)
20 seeking release from custody of U.S. Immigration and Customs Enforcement. On
21 October 21, 2015, the Government filed a “Notice to Court and Suggestion of Mootness”
22 (Doc. 15) indicating that Petitioner was released from custody on October 14, 2015. The
23 Court ordered Petitioner to respond to the Notice. (Doc. 16). On January 25, 2016,
24 Petitioner filed a “Motion to Dismiss as Moot” (Doc. 17). Petitioner requests that the
25 Court dismiss the Petition on the ground that U.S. Immigration and Customs
Enforcement has released Petitioner. The undersigned finds that the case is now moot.
Accordingly,

26 **IT IS RECOMMENDED** that the Court grant Petitioner’s “Motion to Dismiss as
27 Moot” (Doc. 17).

28 **IT IS FURTHER RECOMMENDED** that the Petition for Writ of Habeas

1 Corpus under 28 U.S.C. § 2241 (Doc. 1) be dismissed as moot.

2 **IT IS FURTHER RECOMMENDED** that the Court direct the Clerk of Court to
3 enter judgment accordingly.

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5 **EFFECT OF RECOMMENDATION**

6 This recommendation is not an order that is immediately appealable to the Ninth
7 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules
8 of Appellate Procedure, should not be filed until entry of the district court's judgment.

9 However, pursuant to Rule 72(b), Fed. R. Civ. P., the parties shall have fourteen
10 days from the date of service of a copy of this recommendation within which to file
11 specific written objections with the Court. Thereafter, the parties have fourteen days
12 within which to file a response to the objections. Failure to file timely objections to any
13 factual determinations of the Magistrate Judge may be considered a waiver of a party's
14 right to appellate review of the findings of fact in an order or judgment entered pursuant
15 to the Magistrate Judge's recommendation. *See United States v. Reyna-Tapia*, 328 F.3d
16 1114, 1121 (9th Cir. 2003); *Robbins v. Carey*, 481 F.3d 1143, 1146-47 (9th Cir. 2007).

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18 Dated this 27th day of January, 2016.

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Eileen S. Willett
United States Magistrate Judge